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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/928,833

08/14/2001

Fumio Matsui

MATSUI 5

8102

7590 08/18/2008
BROWDY AND NEIMARK, P.L.L.C.
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EXAMINER

ANGEBRANNDT, MARTIN J

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

08/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 09/928,833</p>	<p>Applicant(s) MATSUI ET AL.</p>	
	<p>Examiner Martin J. Angebranntdt</p>	<p>Art Unit 1795</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 8, 14 and 19.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Martin J Angebranntdt/
Primary Examiner, Art Unit 1795

Continuation of 3. NOTE: The previous limitation in claims 19 limited the one or more dye compounds introduced in claim 14, not the "organic dye compound" introduced in claim 18. There is no basis in the specification for the arbitrary cut off at 500 nm proposed for claim 8 (and the similar limitation recited in claim 19). Further there is no basis for the measurement being performed in solution, noting that figure 1 makes the measurement as a thin film. .

Continuation of 11. does NOT place the application in condition for allowance because: The amendment has not been entered. The rejection based upon Maeda et al. teaches the recited dyes. It may be that the wavelengths of the dyes were measured as the coated layer, rather than in methanol as in the table submitted by the applicant as an attachment to the response. This may be a reason for differences in the absorption data. The addition of stabilizers is considered to embrace the addition of the nitrosodiphenylamine STABILIZER of Otaguro which have an absorption maximum at 440 nm which is less than 40 nm from the 405 nm laser wavelength recited in the claims and so is congruent with the teachings of Nanba et al and on the basis of this, particularly in view of Kanno GB 2329751, one of ordinary skill in the art would recognize that the nitrosodiphenylamine can sensitize the composition of the laser light. The examiner notes that example 1 of the instant specification uses this compound together with dyes 2,4,11,14, or 18, which if the applicant's arguments is relied upon inherently have absorption maxima at 500nm or longer (under some, defined measurement condition), so it is clear that nitrosodiphenylamine is the absorber. The applicant's argument argues as if claim 19 referred to the dyes bounded by the formulae recited in claim 8. Clearly the "one or more dye compounds" refers back to that introduced in claim 14 and not back to the compounds described in claim 8. The arguments that the references have nothing to do with the invention fails to on the fact that the references are all concerned with dye based optical recording media. .